

DEPARTMENT OF STATE REVENUE

01-20180794R.ODR

**Final Order Denying Refund: 01-20180794R
Individual Income Tax
For the Year 2016**

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Final Order Denying Refund.

HOLDING

Florida Resident was not entitled to a refund of tax withheld on his behalf by his Indiana employer because the wages on which the tax was based constituted Indiana source income taxable to Indiana.

ISSUE

I. Individual Income Tax - Nonresident Income.

Authority: IC § 6-3-2-1(a).

Taxpayer argues he is entitled to a refund of 2016 tax withheld on his behalf by his Indiana employer on the ground that he was not a resident of Indiana during 2016.

STATEMENT OF FACTS

Taxpayer is an individual who lives in Florida. Taxpayer explains that he worked for and received income from an Indiana employer for which he provided consulting services. The employer withheld Indiana income taxes on Taxpayer's behalf.

Taxpayer filed a 2016 Indiana IT-40PNR "Part-Year and Full-Year Nonresident" income tax return. That return was received and processed by the Department April 2017.

Taxpayer thereafter filed a 2016 Indiana IT-40X ("Indiana Amended Individual Income Tax Return"). Taxpayer filed the amended return September 2017. On that return, Taxpayer requested a refund of approximately \$1,000.

The Indiana Department of Revenue ("Department") responded in a letter dated September 2017 denying the refund.

The letter stated:

The Indiana Department of Revenue reviewed your claim and must deny it because the W-2 form you submitted with your return did show Indiana income.

Taxpayer disagreed with the Department's decision and submitted a protest to that effect. An administrative hearing was conducted during which Taxpayer explained the basis for the protest. This Final Order Denying Refund results.

I. Individual Income Tax - Nonresident Income.

DISCUSSION

The issue is whether Taxpayer was required to pay Indiana income tax on money earned from an Indiana company.

Taxpayer argues that he is a Florida resident and is not and never has been an Indiana resident. Taxpayer states that he "never worked in Indiana and had no customer responsibilities in the State of Indiana" and that he has been a full-time resident of Florida since 2016.

IC § 6-3-2-1(a) provides as follows:

Each taxable year, a tax at the following rate of adjusted gross income is imposed upon the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person.

Taxpayer concludes that he was not required to pay Indiana income tax on money earned from his Indiana employer and that he is now entitled to a refund of taxes withheld by that employer. While the Department agrees that Taxpayer is not an Indiana resident, Taxpayer is nonetheless required to report and pay tax on money derived from Indiana sources. Indiana law requires that "nonresident person[s]" pay tax on adjusted gross income on "income derived from sources within Indiana"

In this case, Taxpayer earned money from an Indiana employer by providing consulting services for that employer. That money constituted Indiana source income taxable to this state.

Taxpayer's originally filed return 2016 IT-40PNR return was correct and he is not now entitled to a refund of the tax reported on that return.

FINDING

Taxpayer's protest is respectfully denied.

April 9, 2018

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